



April 3, 2007

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## ENGROSSED SENATE BILL No. 105

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DIGEST OF SB 105 (Updated March 28, 2007 6:11 pm - DI 96)

**Citations Affected:** IC 2-5; IC 8-14; IC 8-15.7; noncode.

**Synopsis:** Various transportation matters. Requires the department of transportation to conduct a feasibility study regarding implementation of a commuter rail system with service from Muncie to Indianapolis. Authorizes the department to apply for any federal grants available for conducting the study. Establishes the joint study committee on mass transit and transportation alternatives (committee). Provides that the committee consists of the members of: (1) the senate standing committee on homeland security, transportation, and veterans affairs; and (2) the house of representatives standing committee on transportation. Provides that the committee shall operate under the policies governing study committees adopted by the legislative council. Provides that the Indiana department of transportation shall commission six studies on mass transit in Indiana by region by December 1, 2007, and that the studies must be completed by July 1, 2008. Adds passenger and freight railroad systems to the definition of "project" for purposes of public-private agreements by the department of transportation (INDOT). Prohibits public-private agreements concerning passenger or freight railroad systems unless the general  
(Continued next page)

**Effective:** Upon passage; July 1, 2007.

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**Lanane, Kenley, Errington**

(HOUSE SPONSORS — AUSTIN, MAYS, WHETSTONE, TYLER)

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January 8, 2007, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

January 30, 2007, reported favorably — Do Pass.

February 6, 2007, read second time, ordered engrossed. Engrossed.

February 12, 2007, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 26, 2007, read first time and referred to Committee on Roads and Transportation.

April 3, 2007, amended, reported — Do Pass.

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assembly enacts a statute authorizing such an agreement. Provides that "project", for purposes of public-private agreements by INDOT, does not include a passenger railroad system that is operated by the Northern Indiana Commuter Transportation District. Provides that passenger and freight railroad systems projects may not receive funds from the major moves construction fund. Establishes the alternative transportation construction fund for funding passenger and freight railroad system projects under public-private agreements by the INDOT. Requires INDOT to submit an annual report to legislative council on efforts concerning the development, financing, or operation of freight railroad systems through public-private agreements.

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April 3, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 105

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 2-5-28 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2007]:

4 **Chapter 28. Joint Study Committee on Mass Transit and**  
5 **Transportation Alternatives**

6 **Sec. 1. As used in this chapter, "committee" refers to the joint**  
7 **study committee on mass transit and transportation alternatives.**

8 **Sec. 2. The joint study committee on mass transit and**  
9 **transportation alternatives is established.**

10 **Sec. 3. The committee has the following membership:**

11 (1) **The members of the standing senate committee on**  
12 **homeland security, transportation, and veterans affairs.**

13 (2) **The members of the house of representatives standing**  
14 **committee on transportation.**

15 **Sec. 4. The chairs of the standing committees specified in section**  
16 **3(1) and 3(2) of this chapter shall serve as co-chairs of the**  
17 **committee.**

18 **Sec. 5. The committee shall do the following:**

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(1) Review Indiana department of transportation studies regarding mass transit that have been conducted by the department.

(2) Review federal legislative activity regarding development and expansion of mass transit as well as revenue streams on the federal level.

(3) Review mass transit initiatives of other states.

Sec. 6. The committee shall report on and make recommendations concerning the following issues:

(1) The need to use mass transportation to mitigate congestion.

(2) Ways to address the demand for workforce transportation that is reliable and secure.

(3) Ways to eliminate barriers to investment in mass transportation created by the current structure of transportation funding.

(4) Existing barriers to private investment in mass transportation facilities, including tax inequities.

(5) Effective ways of leveraging funding under federal programs to supplement state funding of mass transportation.

(6) The relationship between land use and investment in mass transportation infrastructure.

(7) The role that mass transportation plays in promoting economic growth, improving the environment, and sustaining the quality of life.

Sec. 7. The legislative service agency and the Indiana department of transportation shall provide support staff for the committee.

Sec. 8. The committee shall operate under the policies governing study committees adopted by the legislative council.

SECTION 2. IC 8-14-14-5, AS ADDED BY P.L.47-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The major moves construction fund is established for the purpose of:

(1) funding projects, **other than passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4)**, under IC 8-15.7 or IC 8-15-3.

(2) funding other projects in the department's transportation plan; and

(3) funding distributions under sections 6 and 7 of this chapter.

(b) The fund shall be administered by the department.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the

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1 money in the fund not currently needed to meet the obligations of the  
 2 fund in the same manner as money is invested by the public employees'  
 3 retirement fund under IC 5-10.3-5. However, the treasurer of state may  
 4 not invest the money in the fund in equity securities. The treasurer of  
 5 state may contract with investment management professionals,  
 6 investment advisors, and legal counsel to assist in the investment of the  
 7 fund and may pay the state expenses incurred under those contracts  
 8 from the fund. Interest that accrues from these investments shall be  
 9 deposited in the fund.

10 (d) The fund consists of the following:

11 (1) Distributions to the fund from the toll road fund under  
 12 IC 8-15.5-11.

13 (2) Distributions to the fund from the next generation trust fund  
 14 under IC 8-14-15.

15 (3) Appropriations to the fund.

16 (4) Gifts, grants, loans, bond proceeds, and other money received  
 17 for deposit in the fund.

18 (5) Revenues arising from:

19 (A) a tollway under IC 8-15-3 or IC 8-23-7-22; or

20 (B) a toll road under IC 8-15-2 or IC 8-23-7-23;

21 that the department designates as part of, and deposits in, the  
 22 fund.

23 (6) Payments, **other than payments for passenger or freight**  
 24 **railroad systems as described in IC 8-15.7-2-14(a)(4)**, made to  
 25 the authority or the department from operators under IC 8-15.7.

26 (7) Interest, premiums, or other earnings on the fund.

27 (e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7.  
 28 Money may not be transferred, assigned, or otherwise removed from  
 29 the fund by the state board of finance, the budget agency, or any other  
 30 state agency.

31 (f) Money in the fund at the end of a state fiscal year does not revert  
 32 to the state general fund.

33 (g) Money in the fund must be appropriated by the general assembly  
 34 to be available for expenditure.

35 SECTION 3. IC 8-14-14-7, AS ADDED BY P.L.47-2006,  
 36 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2007]: Sec. 7. **(a)** In addition to any distributions required by  
 38 section 6 of this chapter, money in the fund may be used for any of the  
 39 following purposes:

40 (1) **Except as provided in subsection (b)**, the payment of any  
 41 obligation incurred or amounts owed by the authority, the  
 42 department, or an operator under IC 8-15-2, IC 8-15-3, IC 8-15.5,

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or IC 8-15.7 in connection with the execution and performance of a public-private agreement under IC 8-15.5 or IC 8-15.7, including establishing reserves.

(2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.

(3) Distributions to the treasurer of state for deposit in the state highway fund, for the funding of any project in the department's transportation plan.

**(b) Money in the fund may not be used for the payment of an obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15.7 in connection with a public-private agreement under IC 8-15.7 concerning a passenger or freight railroad system as described in IC 8-15.7-2-14(a)(4).**

SECTION 4. IC 8-14-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

**Chapter 17. Alternative Transportation Construction Fund**

**Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.**

**Sec. 2. As used in this chapter, "department" refers to the Indiana department of transportation.**

**Sec. 3. As used in this chapter, "fund" refers to the alternative transportation construction fund established by section 4 of this chapter.**

**Sec. 4. (a) The alternative transportation construction fund is established for the purpose of:**

**(1) funding projects under IC 8-15.7 for passenger and freight railroad systems as described in IC 8-15.7-2-14(a)(4); and**

**(2) funding distributions under section 5 of this chapter.**

**(b) The fund shall be administered by the department.**

**(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees' retirement fund under IC 5-10.3-5. However, the treasurer of state may not invest the money in the fund in equity securities. The treasurer of state may contract with investment management professionals, investment advisers, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund.**

**(d) The fund consists of the following:**

**(1) Appropriations to the fund.**

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(2) Gifts, grants, loans, bond proceeds, and other money received for deposit in the fund.

(3) Payments made to the authority or the department from operators under IC 8-15.7 concerning passenger and freight railroad systems as described in IC 8-15.7-2-14(a)(4).

(4) Interest, premiums, or other earnings on the fund.

(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

**Sec. 5. Money in the fund may be used for any of the following purposes:**

(1) The payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15.7 in connection with the execution and performance of a public-private agreement under IC 8-15.7 for a passenger or freight railroad system as described in IC 8-15.7-2-14(a)(4).

(2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.

**SECTION 5. IC 8-15.7-1-5, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:** Sec. 5. (a) This article contains full and complete authority for agreements and leases with private entities to carry out the activities described in this article. Except as provided in this article, no procedure, proceeding, publication, notice, consent, approval, order, or act by the authority, the department, or any other state or local agency or official is required to enter into an agreement or lease, and no law to the contrary affects, limits, or diminishes the authority for agreements and leases with private entities, except as provided by this article.

(b) Notwithstanding any other law, the department, the authority, or an operator may not carry out any of the following activities under this article unless the general assembly enacts a statute authorizing that activity:

(1) Issuing a request for proposals for, or entering into, a public-private agreement concerning a project other than Interstate Highway 69 between Interstate Highway 465 and Interstate Highway 64.

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(2) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(3) Imposing user fees on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

**(c) Notwithstanding any other law, neither the department nor the authority may enter into a public-private agreement concerning a project consisting of a passenger or freight railroad system described in IC 8-15.7-2-14(a)(4) unless the general assembly enacts a statute authorizing such an agreement. However, this subsection does not prohibit the department from:**

**(1) conducting preliminary studies that the department considers necessary to determine the feasibility of such a project; or**

**(2) issuing a request for qualifications or a request for proposals, or both, under IC 8-15.7-4 for such a project.**

SECTION 6. IC 8-15.7-2-14, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. **(a)** Subject to IC 8-15.7-1-5, "project" means all or part of the following:

(1) A limited access facility (as defined in IC 8-23-1-28).

(2) A tollway.

(3) Roads and bridges.

**(4) Passenger and freight railroad systems, including:**

**(A) the costs of environmental impact studies;**

**(B) property, equipment, and appurtenances necessary to operate a railroad, including lines, routes, roads, rights-of-way, easements, licenses, permits, track upgrades, rail grade crossings, locomotives, passenger cars, freight cars, and other railroad cars of any type or class; and**

**(C) other costs the department determines are necessary to develop a passenger or freight railroad system in Indiana.**

**(4) (5) All or part of a bridge, tunnel, overpass, underpass, interchange, structure, ramp, access road, service road, entrance plaza, approach, tollhouse, utility corridor, toll gantry, rest stop, service area, or administration, storage, or other building or facility, including temporary facilities and buildings or facilities**

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and structures that will not be tolled, that the department determines is appurtenant, necessary, or desirable for the development, financing, or operation of the facilities described in subdivisions (1) ~~(2)~~; ~~and (3)~~; **through (4)**.

~~(5)~~ **(6)** An improvement, betterment, enlargement, extension, or reconstruction of all or part of any of the facilities described in this section, including a nontolled part, that is separately designated by name or number.

**(b) The term does not include a passenger railroad system that is operated by a commuter transportation district established under IC 8-5-15.**

SECTION 7. IC 8-15.7-5-5, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. To the extent that the department receives any payment or compensation under the public-private agreement other than repayment of a loan or grant or reimbursement for services provided by the department to the operator, the payment or compensation shall be distributed at the direction of the department to the:

(1) major moves construction fund established under IC 8-14-14;  
(2) department for deposit in the state highway fund established by IC 8-23-9-54; ~~or~~

**(3) alternative transportation construction fund established under IC 8-14-17; or**

~~(3)~~ **(4)** operator or the authority for debt reduction.

SECTION 8. [EFFECTIVE JULY 1, 2007] **(a) The definitions in IC 8-15.7-2, as amended by this act, apply throughout this SECTION.**

**(b) The department shall submit an annual report to the legislative council in an electronic format under IC 5-14-6. The report under this subsection must include detailed information on the department's efforts concerning:**

**(1) the development;**

**(2) the financing;**

**(3) the operation; or**

**(4) any combination of the development, financing, and operation;**

**of passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4), as amended by this act, through public-private agreements.**

**(c) This SECTION expires July 1, 2012.**

SECTION 9. [EFFECTIVE JULY 1, 2007] **(a) As used in this**

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SECTION, "department" refers to the Indiana department of transportation established by IC 8-23-2-1.

(b) Before December 1, 2007, the department shall commission six (6) studies concerning mass transit in each of the following regions:

(1) Central Indiana, consisting of the following counties:

- (A) Boone.
- (B) Delaware.
- (C) Hamilton.
- (D) Hancock.
- (E) Hendricks.
- (F) Johnson.
- (G) Madison.
- (H) Marion.
- (I) Monroe.
- (J) Morgan.
- (K) Shelby.

(2) Northwest Indiana.

(3) Northeast Indiana.

(4) South central Indiana, including Monroe County.

(5) Southwest Indiana.

(6) Southeast Indiana.

(c) Each of the studies specified in subsection (b) must analyze the following aspects of mass transit systems:

- (1) The need to use public transportation to mitigate congestion on a statewide basis.
- (2) Ways to address the demand for workforce transportation that is reliable and secure.
- (3) Ways to eliminate barriers to investment in public transportation created by the current structure of transportation funding.
- (4) Existing barriers to private investment in public transportation facilities, including tax inequities.
- (5) Effective ways of leveraging federal programs to supplement state funding of public transportation.
- (6) The relationship between land use and investment in public transportation infrastructure on a statewide basis.
- (7) The role that public transportation plays in promoting economic growth, improving the environment, and sustaining the quality of life.
- (8) Policies required to develop a mass transportation system to support a growing population and the states economy for

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the foreseeable future.

(9) Transit oriented development.

(10) Impact of mass transit on projected demographic patterns including age populations.

(11) Current and future commuter patterns in the identified counties.

(12) Current trends in mass transit on a statewide basis.

(13) A review of federal activities in the area of mass transit on a statewide basis.

(14) Funding options for pilot mass transit and alternative transit systems.

(d) The department shall require winning bidders for the studies required by subsection (b) to submit final reports by July 1, 2008.

(e) The department shall transmit the results of the studies required by subsection (b) to the public and, in an electronic format under IC 5-14-6, to the general assembly on or about July 1, 2008. If a winning bidder produces intermediate reports in the course of conducting a study, the department shall also transmit in a timely manner the results of those intermediate reports to the public, and in an electronic format under IC 5-14-6, to the general assembly and the governor.

(f) The department shall pay for the studies required by subsection (b) from money under the department's control, including money held in the following funds or accounts:

(1) Federal highway account.

(2) Federal transit account.

(3) State planning and research fund.

(4) State's portion of the public mass transit fund.

(g) This SECTION expires January 1, 2009.

SECTION 10. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the Indiana department of transportation.

(b) The department shall commission a study of the feasibility and implementation of a commuter rail system with service from Muncie to Indianapolis. The study:

(1) must address the feasibility and implementation of stops in Anderson, Noblesville, Fishers, Indianapolis, and Bloomington; and

(2) may address the feasibility and implementation of additional stops.

(c) The study required by this SECTION must include the following information:

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- 1 (1) Potential routes for the commuter rail system.
- 2 (2) An estimate of costs associated with implementing the
- 3 commuter rail system.
- 4 (3) An estimate of the number of potential riders.
- 5 (4) An estimate of the effect on existing transportation
- 6 systems.
- 7 (5) Any other relevant issues that may affect the
- 8 implementation of a commuter rail system.
- 9 (d) The department may apply for any grants or enter into
- 10 agreements with the Federal Transit Administration in accordance
- 11 with 49 U.S.C. 5301 et seq. to complete the study.
- 12 (e) The department shall submit, not later than August 30, 2008,
- 13 a copy of the results of the study in an electronic format under
- 14 IC 5-14-6 to the executive director of the legislative services agency
- 15 for distribution to the members of the general assembly.
- 16 (f) This SECTION expires December 31, 2008.
- 17 SECTION 11. An emergency is declared for this act.

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# COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 105, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 105 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 10, Nays 0.

# SENATE MOTION

Madam President: I move that Senator Errington be added as coauthor of Senate Bill 105.

LANANE

# COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Senate Bill 105, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 2-5-28 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

**Chapter 28. Joint Study Committee on Mass Transit and Transportation Alternatives**

**Sec. 1. As used in this chapter, "committee" refers to the joint study committee on mass transit and transportation alternatives.**

**Sec. 2. The joint study committee on mass transit and transportation alternatives is established.**

**Sec. 3. The committee has the following membership:**

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(1) The members of the standing senate committee on homeland security, transportation, and veterans affairs.

(2) The members of the house of representatives standing committee on transportation.

**Sec. 4.** The chairs of the standing committees specified in section 3(1) and 3(2) of this chapter shall serve as co-chairs of the committee.

**Sec. 5.** The committee shall do the following:

(1) Review Indiana department of transportation studies regarding mass transit that have been conducted by the department.

(2) Review federal legislative activity regarding development and expansion of mass transit as well as revenue streams on the federal level.

(3) Review mass transit initiatives of other states.

**Sec. 6.** The committee shall report on and make recommendations concerning the following issues:

(1) The need to use mass transportation to mitigate congestion.

(2) Ways to address the demand for workforce transportation that is reliable and secure.

(3) Ways to eliminate barriers to investment in mass transportation created by the current structure of transportation funding.

(4) Existing barriers to private investment in mass transportation facilities, including tax inequities.

(5) Effective ways of leveraging funding under federal programs to supplement state funding of mass transportation.

(6) The relationship between land use and investment in mass transportation infrastructure.

(7) The role that mass transportation plays in promoting economic growth, improving the environment, and sustaining the quality of life.

**Sec. 7.** The legislative service agency and the Indiana department of transportation shall provide support staff for the committee.

**Sec. 8.** The committee shall operate under the policies governing study committees adopted by the legislative council.

SECTION 2. IC 8-14-14-5, AS ADDED BY P.L.47-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The major moves construction fund is established for the purpose of:

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(1) funding projects, **other than passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4)**, under IC 8-15.7 or IC 8-15-3.

(2) funding other projects in the department's transportation plan; and

(3) funding distributions under sections 6 and 7 of this chapter.

(b) The fund shall be administered by the department.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees' retirement fund under IC 5-10.3-5. However, the treasurer of state may not invest the money in the fund in equity securities. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund.

(d) The fund consists of the following:

(1) Distributions to the fund from the toll road fund under IC 8-15.5-11.

(2) Distributions to the fund from the next generation trust fund under IC 8-14-15.

(3) Appropriations to the fund.

(4) Gifts, grants, loans, bond proceeds, and other money received for deposit in the fund.

(5) Revenues arising from:

(A) a tollway under IC 8-15-3 or IC 8-23-7-22; or

(B) a toll road under IC 8-15-2 or IC 8-23-7-23;

that the department designates as part of, and deposits in, the fund.

(6) Payments, **other than payments for passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4)**, made to the authority or the department from operators under IC 8-15.7.

(7) Interest, premiums, or other earnings on the fund.

(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

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SECTION 3. IC 8-14-14-7, AS ADDED BY P.L.47-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. **(a)** In addition to any distributions required by section 6 of this chapter, money in the fund may be used for any of the following purposes:

- (1) **Except as provided in subsection (b)**, the payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15-2, IC 8-15-3, IC 8-15.5, or IC 8-15.7 in connection with the execution and performance of a public-private agreement under IC 8-15.5 or IC 8-15.7, including establishing reserves.
- (2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.
- (3) Distributions to the treasurer of state for deposit in the state highway fund, for the funding of any project in the department's transportation plan.

**(b) Money in the fund may not be used for the payment of an obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15.7 in connection with a public-private agreement under IC 8-15.7 concerning a passenger or freight railroad system as described in IC 8-15.7-2-14(a)(4).**

SECTION 4. IC 8-14-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

**Chapter 17. Alternative Transportation Construction Fund**

**Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.**

**Sec. 2. As used in this chapter, "department" refers to the Indiana department of transportation.**

**Sec. 3. As used in this chapter, "fund" refers to the alternative transportation construction fund established by section 4 of this chapter.**

**Sec. 4. (a) The alternative transportation construction fund is established for the purpose of:**

- (1) funding projects under IC 8-15.7 for passenger and freight railroad systems as described in IC 8-15.7-2-14(a)(4); and
- (2) funding distributions under section 5 of this chapter.

**(b) The fund shall be administered by the department.**

**(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees' retirement fund under IC 5-10.3-5. However, the**

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treasurer of state may not invest the money in the fund in equity securities. The treasurer of state may contract with investment management professionals, investment advisers, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund.

(d) The fund consists of the following:

- (1) Appropriations to the fund.
- (2) Gifts, grants, loans, bond proceeds, and other money received for deposit in the fund.
- (3) Payments made to the authority or the department from operators under IC 8-15.7 concerning passenger and freight railroad systems as described in IC 8-15.7-2-14(a)(4).
- (4) Interest, premiums, or other earnings on the fund.

(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

**Sec. 5. Money in the fund may be used for any of the following purposes:**

- (1) The payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15.7 in connection with the execution and performance of a public-private agreement under IC 8-15.7 for a passenger or freight railroad system as described in IC 8-15.7-2-14(a)(4).
- (2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.

SECTION 5. IC 8-15.7-1-5, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) This article contains full and complete authority for agreements and leases with private entities to carry out the activities described in this article. Except as provided in this article, no procedure, proceeding, publication, notice, consent, approval, order, or act by the authority, the department, or any other state or local agency or official is required to enter into an agreement or lease, and no law to the contrary affects, limits, or diminishes the authority for agreements and leases with private entities, except as provided by this article.



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(b) Notwithstanding any other law, the department, the authority, or an operator may not carry out any of the following activities under this article unless the general assembly enacts a statute authorizing that activity:

- (1) Issuing a request for proposals for, or entering into, a public-private agreement concerning a project other than Interstate Highway 69 between Interstate Highway 465 and Interstate Highway 64.
- (2) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).
- (3) Imposing user fees on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

**(c) Notwithstanding any other law, neither the department nor the authority may enter into a public-private agreement concerning a project consisting of a passenger or freight railroad system described in IC 8-15.7-2-14(a)(4) unless the general assembly enacts a statute authorizing such an agreement. However, this subsection does not prohibit the department from:**

- (1) conducting preliminary studies that the department considers necessary to determine the feasibility of such a project; or**
- (2) issuing a request for qualifications or a request for proposals, or both, under IC 8-15.7-4 for such a project.**

SECTION 6. IC 8-15.7-2-14, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. **(a)** Subject to IC 8-15.7-1-5, "project" means all or part of the following:

- (1) A limited access facility (as defined in IC 8-23-1-28).
- (2) A tollway.
- (3) Roads and bridges.
- (4) Passenger and freight railroad systems, including:**
  - (A) the costs of environmental impact studies;**
  - (B) property, equipment, and appurtenances necessary to operate a railroad, including lines, routes, roads, rights-of-way, easements, licenses, permits, track upgrades, rail grade crossings, locomotives, passenger cars, freight cars, and other railroad cars of any type or**

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class; and

**(C) other costs the department determines are necessary to develop a passenger or freight railroad system in Indiana.**

~~(4)~~ **(5)** All or part of a bridge, tunnel, overpass, underpass, interchange, structure, ramp, access road, service road, entrance plaza, approach, tollhouse, utility corridor, toll gantry, rest stop, service area, or administration, storage, or other building or facility, including temporary facilities and buildings or facilities and structures that will not be tolled, that the department determines is appurtenant, necessary, or desirable for the development, financing, or operation of the facilities described in subdivisions (1) ~~(2)~~, and ~~(3)~~; **through (4).**

~~(5)~~ **(6)** An improvement, betterment, enlargement, extension, or reconstruction of all or part of any of the facilities described in this section, including a nontolled part, that is separately designated by name or number.

**(b) The term does not include a passenger railroad system that is operated by a commuter transportation district established under IC 8-5-15.**

SECTION 7. IC 8-15.7-5-5, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. To the extent that the department receives any payment or compensation under the public-private agreement other than repayment of a loan or grant or reimbursement for services provided by the department to the operator, the payment or compensation shall be distributed at the direction of the department to the:

(1) major moves construction fund established under IC 8-14-14;  
(2) department for deposit in the state highway fund established by IC 8-23-9-54; or

**(3) alternative transportation construction fund established under IC 8-14-17; or**

~~(3)~~ **(4)** operator or the authority for debt reduction.

SECTION 8. [EFFECTIVE JULY 1, 2007] **(a) The definitions in IC 8-15.7-2, as amended by this act, apply throughout this SECTION.**

**(b) The department shall submit an annual report to the legislative council in an electronic format under IC 5-14-6. The report under this subsection must include detailed information on the department's efforts concerning:**

(1) the development;  
(2) the financing;



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(3) the operation; or  
 (4) any combination of the development, financing, and operation;  
 of passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4), as amended by this act, through public-private agreements.

(c) This SECTION expires July 1, 2012.

SECTION 9. [EFFECTIVE JULY 1, 2007] (a) As used in this SECTION, "department" refers to the Indiana department of transportation established by IC 8-23-2-1.

(b) Before December 1, 2007, the department shall commission six (6) studies concerning mass transit in each of the following regions:

(1) Central Indiana, consisting of the following counties:

- (A) Boone.
- (B) Delaware.
- (C) Hamilton.
- (D) Hancock.
- (E) Hendricks.
- (F) Johnson.
- (G) Madison.
- (H) Marion.
- (I) Monroe.
- (J) Morgan.
- (K) Shelby.

(2) Northwest Indiana.

(3) Northeast Indiana.

(4) South central Indiana, including Monroe County.

(5) Southwest Indiana.

(6) Southeast Indiana.

(c) Each of the studies specified in subsection (b) must analyze the following aspects of mass transit systems:

- (1) The need to use public transportation to mitigate congestion on a statewide basis.
- (2) Ways to address the demand for workforce transportation that is reliable and secure.
- (3) Ways to eliminate barriers to investment in public transportation created by the current structure of transportation funding.
- (4) Existing barriers to private investment in public transportation facilities, including tax inequities.
- (5) Effective ways of leveraging federal programs to

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supplement state funding of public transportation.

(6) The relationship between land use and investment in public transportation infrastructure on a statewide basis.

(7) The role that public transportation plays in promoting economic growth, improving the environment, and sustaining the quality of life.

(8) Policies required to develop a mass transportation system to support a growing population and the states economy for the foreseeable future.

(9) Transit oriented development.

(10) Impact of mass transit on projected demographic patterns including age populations.

(11) Current and future commuter patterns in the identified counties.

(12) Current trends in mass transit on a statewide basis.

(13) A review of federal activities in the area of mass transit on a statewide basis.

(14) Funding options for pilot mass transit and alternative transit systems.

(d) The department shall require winning bidders for the studies required by subsection (b) to submit final reports by July 1, 2008.

(e) The department shall transmit the results of the studies required by subsection (b) to the public and, in an electronic format under IC 5-14-6, to the general assembly on or about July 1, 2008. If a winning bidder produces intermediate reports in the course of conducting a study, the department shall also transmit in a timely manner the results of those intermediate reports to the public, and in an electronic format under IC 5-14-6, to the general assembly and the governor.

(f) The department shall pay for the studies required by subsection (b) from money under the department's control, including money held in the following funds or accounts:

(1) Federal highway account.

(2) Federal transit account.

(3) State planning and research fund.

(4) State's portion of the public mass transit fund.

(g) This SECTION expires January 1, 2009."

Page 1, line 4, delete "conduct" and insert "commission".

Page 1, line 8, after "Noblesville," delete "and".

Page 1, line 8, delete "Fishers;" and insert "Fishers, Indianapolis, and Bloomington;".

Renumber all SECTIONS consecutively.

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and when so amended that said bill do pass.

(Reference is to SB 105 as printed January 31, 2007.)

AUSTIN, Chair

Committee Vote: yeas 7, nays 1.

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